

**CITY OF BIRMINGHAM
PLANNING BOARD ACTION ITEMS
OF WEDNESDAY, MARCH 27, 2013**

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| STUDY SESSION To consider amendments to Chapter 126, Zoning, Article 07, Section 7.08 Requirements, to eliminate redundancy in the review process by no longer requiring duplicate Design Reviews for projects by the Planning Board and Design Review Board | 6 |
| <p style="padding-left: 40px;">Motion by Mr. DeWeese Seconded by Mr. Koseck to set a public hearing for April 24, 2013 to consider the following Zoning Ordinance amendment:</p> <p>TO AMEND ARTICLE 07, SECTION 7.08 REQUIREMENTS, TO ELIMINATE REDUNDENCY IN THE REVIEW PROCESS BY NO LONGER REQUIRING DUPLICATE DESIGN REVIEWS FOR PROJECTS BY THE PLANNING BOARD AND DESIGN REVIEW BOARD.</p> | 7 |
| Motion carried, 6-0. | 7 |
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**CITY OF BIRMINGHAM
REGULAR MEETING OF THE PLANNING BOARD
WEDNESDAY, MARCH 27, 2013
City Commission Room
151 Martin Street, Birmingham, Michigan**

Minutes of the regular meeting of the City of Birmingham Planning Board held March 27, 2013. Chairman Robin Boyle convened the meeting at 7:30 p.m.

Present: Chairman Robin Boyle; Board Members Carroll DeWeese, Bert Koseck, Gillian Lazar, Janelle Whipple-Boyce, Bryan Williams; Student Representative Arshon Afrakhteh

Absent: Board Member Scott Clein

Administration: Matthew Baka, Sr. Planner
Jana Ecker, Planning Director
Carole Salutes, Recording Secretary

03-45-13

**APPROVAL OF THE MINUTES OF THE REGULAR PLANNING BOARD MEETING
HELD MARCH 13, 2013**

Ms. Lazar:
Page 2 – First sentence, insert “of Detroit” after “City.”

**Motion by Mr. DeWeese
Seconded by Mr. Koseck to accept the Minutes of the Regular Planning Board
Meeting of March 13, 2013 as revised.**

Motion carried, 6-0.

VOICE VOTE

Yeas: DeWeese, Koseck, Boyle, Lazar, Whipple-Boyce, Williams

Nays: None

Absent: Clein

03-46-13

CHAIRPERSON’S COMMENTS

Tonight’s agenda contains only study session items.

03-47-13

APPROVAL OF THE AGENDA (no changes)

03-48-13

STUDY SESSION

Sub-Area Plan for Oakland/Park/Woodward Ave.

Ms. Ecker advised that at the City Commission meeting on February 25, 2013, the City Commission reviewed a proposal for conditional rezoning for the property at 404 Park St. After much discussion, the City Commission denied the request for conditional rezoning without prejudice, and directed the Planning Board to conduct the following studies:

- 1) **Short Term Study** – To conduct a study and prepare a sub-area plan and make recommendations to the City Commission for the proper zoning classification for the “edge properties” in this area (similar to the study that was conducted on W. Brown St.); and
- 2) **Long Term Study** – To conduct a study of the nature and use of conditional rezoning, and make recommendations to the City Commission as to whether this process should be permitted in Birmingham, and if so, whether it should be restricted to certain locations or specific situations.

At this time, the City is under contract with LSL Planning to conduct a sub-area plan for the S. Woodward Ave. Gateway between 14 Mile Rd. and Lincoln. On March 18, 2013, the City Commission voted to amend the existing contract with LSL Planning for the S. Woodward Ave. Gateway Project to include a small sub-area plan for the Oakland/Park/Woodward area in the amount of \$5,500.

Postcard notices for the first public hearing will be sent to property owners and everyone that lives within the subject area.

Mr. DeWeese commented that people living in Brookside should also be notified. Mr. Williams noted the potential overlap of three projects on tonight’s agenda. He feels the board should first grapple with the general principles they want to develop for transitional areas because it affects the Oakland/Park/Woodward Ave. project as well as S. Woodward Ave.

Ms. Kathleen Duffy was present from LSL Planning with a PowerPoint that gave an overview of their procedure with respect to the agreed-upon study area. LSL Planning will be doing a site analysis, looking at the recent development history, reviewing existing plans, studying the traffic through the neighborhood, and looking at the zoning.

Mr. DeWeese pointed out that their methodology needs to include the neighbors in some form. Otherwise, no matter how good or poor the study is it will not have the support of the neighbors, whether it is an academic study or just a description of the

area. Chairman Boyle observed that LSL will get a pretty clear view as to the neighbors' concerns from Planning Board minutes. A limited amount of money is being expended and a public engagement process would be on a different scale. However, to ignore the reality of the property market from this study is to only see one part of the picture because it is a very important element.

Ms. Duffy indicated they expect to have the study completed by the end of April for presentation to this board.

Mr. Williams observed that the biggest problem in the entire City is there are not enough transition areas like the little strip at the northwest where the neighborhoods are protected by existing vegetation. Chairman Boyle suggested that in order to capture the totality of the neighborhood the study area should extend further north along the west bank of the Rouge River. Ms. Duffy agreed to that extension without changing the budget.

03-49-13

STUDY SESSION

Review transitional areas of Birmingham where residential areas abut commercial areas

Mr. Baka advised the Planning Board and City Commission recently reviewed an application to rezone the single-family parcel located at 404 Park St. to allow for a multi-family residential development.

On February 25, 2013 the City Commission held a public hearing at which it was discussed that the areas of Birmingham where the commercial zones meet the residential zones should be viewed as sensitive transitional areas. The application was denied without prejudice to allow the Planning Board to study the area at 404 Park to determine the appropriate zoning classification.

In an effort to make an informed decision, the Planning Board directed staff to prepare an analysis of similarly situated properties throughout town to examine how the transition is dealt with in those areas. This includes the Downtown, N. Old Woodward Ave., S. Old Woodward Ave., the S. Woodward Ave. Corridor, and the Triangle District. Each of these areas has a unique set of conditions that determine their relationship with the adjacent residential areas.

Downtown Overlay Zone

In most cases there is a step down to a lower intensity commercial zone or a multi-family zone abutting single-family residential which acts as a transition from the B-4/D-4 Zone. However, there are three areas where single-family residential is directly exposed to higher density zones: Oakland between Woodward Ave. and Ferndale; Willits at Chester; and Purdy at Daines. In these instances, right-of-way separates the single-family homes from commercial development.

N. Old Woodward Ave.

On the east side of N. Old Woodward Ave. is a fairly intense strip of commercial development and then on the west side there is the park or multi-family. So there is a distinct separation between the commercial strip and the single-family residential to the west. In the back is the Rouge River and wooded areas and below Ravine there is no significant natural barrier, so there are traditional buffering methods of screening and rear setbacks.

S. Old Woodward Ave.

The west side of S. Old Woodward Ave. is zoned B-2B/D-2 which permits two-story commercial development or 40 ft. three-story residential. The rear property lines abut the rear lot lines of the single-family homes along Ann St. The existing screening at the rear of the majority of the B-2B parcels does not comply with the current screening standards.

S. Woodward Ave. Corridor

The corridor between Lincoln and Fourteen Mile Rd. is also zoned B-2B. These properties are separated from the parcels behind by a public alley. The parcels on the other side of the alley are a combination of either parking zones or two-family residential. Mr. Williams said the problem there is the triangular nature of the parking on the east and west sides directly across the street from single-family residences.

Triangle District

In this area the newly established zoning allows high density development at Woodward Ave. and along E. Maple Rd. and steps down through three successively lower density zones until it reaches the existing single-family homes. The ASF-3 Zone abutting the single-family residences allows for town house style attached single-family housing. The ASF-3 Zone permits a 5 ft. front setback to allow the building to be moved closer to the street and to maintain a street wall that compliments the surrounding commercial development.

Chairman Boyle suggested moving toward a code that would include a palate from which property owners could select a variety of conditions that would screen these defined areas.

03-50-13

STUDY SESSION

Use of Conditional Rezoning

Ms. Ecker explained that the City Commission directed the Planning Board to conduct a short-term study and a long-term study and this is the long-term study as to whether Conditional Rezoning should be permitted in Birmingham, and if so, whether it should be restricted to certain locations or specific situations.

At the last meeting the Planning Board had asked for information on what other communities have done with regard to conditional zoning in Michigan. Also, if they have adopted conditional rezoning, look at their standards and what they require.

The Michigan Zoning Enabling Act changed several years ago and it now allows for conditional rezoning in the State. Birmingham has a long history of comprehensive planning. In the last 30 years the City has done a full City Master Plan and then utilized a sub-area approach to planning for various sections of the City. From there they have adopted master plans for those areas and then moved forward to ordinance drafting that would put the master plans into law.

Some of the potential benefits of conditional rezoning include the ability for a community to gain an increased certainty about the type and scale of development that will occur on a site. Most often plans and specifications are included with the offer and the zoning agreement. The binding zoning agreement assists with enforcement if any violations occur.

The most often cited challenge to the use of conditional rezoning is the concern that such a process undermines the master planning process by allowing too much flexibility on a site. It is developer lead as opposed to community lead. The same concerns arise in this way, as many people consider conditional rezoning to be akin to spot zoning. Another concern is the level of precedent that may be set once a conditional rezoning is approved on one site in the community.

One of the areas that conditional rezoning may be considered as an option is when dealing with parcels that are uniquely located or have unique characteristics. Other ways that it has been used is to validate existing non-conforming uses or to limit the use or development of environmentally sensitive parcels.

Ms. Ecker advised that most of the sample ordinances included in the packets are very similar in their content. All contain sections on the intent; eligibility; zoning agreements; the voluntary nature of conditional rezoning offers; procedures for application; standards for review and approval or denial of conditional rezoning cases; and the standards to be utilized for the review of conditional rezoning applications. They also talk about expiration time frames if a development doesn't get built within a certain time, and how the conditional rezoning is documented at a county level so the status of that property is very clear. Additionally they discuss penalties for non-compliance.

There are other communities that are doing conditional rezoning that don't have a specific ordinance to address it. When deciding whether or not to do conditional rezoning, Ms. Ecker thought it should specifically be allowed or prohibited in the ordinance.

Chairman Boyle offered background as to how conditional rezoning became codified in the planning law for the State of Michigan. With property values recovering now, it is time for the City to address this issue.

Mr. DeWeese noted several points to consider with regard to conditional rezoning:

- A procedure is needed to facilitate or permit the potential use of a Special Land Use Permit (“SLUP”);
- Consider whether a more appropriate zoning classification is required;
- Consider if the request is consistent with established zoning patterns or if it represents spot zoning;
- The City’s right to rezone needs to be written in the ordinance;
- The ordinance must specify what some of the standards may be; and
- The City needs to have oversight both during and after the rezoning.

He doesn’t see the need for conditional rezoning, but he sees the need to be proactive so the City won’t require it.

In response to the chairman, Ms. Ecker agreed to ask the city attorney to do a legal search on challenges to development agreements or conditional rezoning. For that information, Mr. Williams recommended reaching out to a law firm that represents developers.

Chairman Boyle summed up the discussion so far. The Planning Board is responding to the City Commission’s request to do a sub-area plan for Little San Francisco. Staff will be looking at conditional areas and trying to see what the challenges and opportunities are for appropriate measures to either change the zoning or identify how to deal with some of the transitional issues. Thirdly, because it is relevant to these areas, whether the board wishes to move forward to permit some form of conditional rezoning within the ordinance.

No one from the public wished to speak on this issue at 8:54 p.m.

Chairman Boyle suggested that staff engage with attorneys, either existing or new, to bring forward an amendment to the Zoning Ordinance that would allow a process for conditional rezoning to be considered and tested through the Planning Board and through the City. When this matter is revisited the board can consider area plans which might include some rezoning, and/or discuss whether conditional rezoning might go into the ordinance.

Ms. Whipple-Boyce thought this should be looked at as an ordinance, because she feels as much as they try, the board will never be able to anticipate and be proactive enough for different uses on sites throughout the City.

03-51-13

STUDY SESSION

To consider amendments to Chapter 126, Zoning, Article 07, Section 7.08 Requirements, to eliminate redundancy in the review process by no longer requiring duplicate Design Reviews for projects by the Planning Board and Design Review Board

Mr. Baka noted the 2013 Planning Board Action List lists the re-evaluation of the board review process as a goal for this year. In an effort to create a more efficient review process, the Planning Dept. has drafted an ordinance amendment that will allow the Planning Board to perform Design Reviews for projects that also require Site Plan Review. Projects that do not require Site Plan Review will continue to appear before the Design Review Board for Design Review. All projects located in local Historic Districts will continue to appear before the Historic District Commission in addition to any required Site Plan Review.

It was recommended that the proposed ordinance amendment be sent to the Design Review Board for courtesy review.

Motion by Mr. DeWeese

Seconded by Mr. Koseck to set a public hearing for April 24, 2013 to consider the following Zoning Ordinance amendment:

TO AMEND ARTICLE 07, SECTION 7.08 REQUIREMENTS, TO ELIMINATE REDUNDENCY IN THE REVIEW PROCESS BY NO LONGER REQUIREING DUPLICATE DESIGN REVIEWS FOR PROJECTS BY THE PLANNING BOARD AND DESIGN REVIEW BOARD.

Motion carried, 6-0.

VOICE VOTE

Yeas: DeWeese, Koseck, Boyle, Lazar, Whipple-Boyce, Williams

Nays: None

Absent: Clein

03-52-13

STUDY SESSION

Multi-Modal Master Plan Update

Ms. Ecker reported that the process is being overseen by a diverse Steering Committee representing different users. Greenway Collaborative has been brought in to conduct meetings and the Committee agreed upon sample visions, goals, and objectives. Then Greenway did an inventory analysis of existing conditions throughout the whole city to see how it is doing. A Community Visioning Session was held in January. Based on the discussion at that meeting, Greenway put together some recommendations for different corridors that were of concern, along with different policy directions.

At the open house in February, Greenway aired the recommendations which were based on the outcome of their survey and comments they had heard over the last six months. The recommendations were very well received by the public. At this point

Greenway is pulling all of their efforts together and coming up with a draft Multi-Modal Master Plan. Hopefully, it will be seen at the Planning Board's second meeting in May.

Mr. Williams observed the S. Woodward Ave. Corridor Project goes on simultaneously with this project. Changes in the number of lanes on Woodward Ave., changes in the frontage of the commercial buildings, the creation of cycle tracks, and larger pedestrian walking areas all impact the commercial developments along Woodward Ave. Ms. Ecker said they are trying to coordinate the projects as best they can and they will wrap up by the end of summer. All of the consultants from the different projects were invited to the open house in February so that they can coordinate their efforts.

Mr. Williams noted that one version of the plans if enacted would change the parking in front of commercial buildings along Woodward Ave. from angle parking to parallel parking which will cut significantly the number of spaces. That will directly impact the commercial property owners. He knows their response will be to put parking in the back and then that significantly affects the neighbors.

Ms. Ecker advised that business owners from both the east and west sides of Woodward Ave. are included on the Steering Committee for the S. Woodward Ave. Corridor Project. Also, the Woodward Ave. Action Assoc. is doing a whole Complete Streets study from the river to Pontiac and a large portion of their membership is business-based along the Woodward Corridor. Their Steering Committee also has extensive representation of business and property owners along Woodward Ave.

The chairman commented it might be valuable to recognize that the survey that was taken doesn't capture the use of transit by people coming into the City to work. Some ridership data from SMART for the Woodward Corridor would perhaps present in the final report a slightly broader picture of how transit is used; not just by the residents of Birmingham.

There were no members of the public present to comment at 9:20 p.m.

03-53-13

MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA (no one spoke)

03-54-13

MISCELLANEOUS BUSINESS AND COMMUNICATIONS

- a. Communications (none)
- b. Administrative Approvals

- 348 E. Maple Rd. – To install HVAC louvers on rear wall of building plus1 in the soffit on Maple Rd., 3 furnace vents, 1 AC condenser for a server room (total mechanical on roof screened).
- 273 Pierce St., Streetside – Run power in conduit to the “tree box” by the curb. The electrical box would provide power and light to the patio. Work to be done during the reconstruction of Pierce St.
- 474 N. Old Woodward Ave., Market –
 1. Adjust location/size of proposed window on east elevation into pizzeria to coordinate with final equipment layout;
 2. Omit proposed door to kitchen to coordinate with final equipment layout;
 3. Retain two existing windows on east elevation (parking lot) to be obscured from interior (similar to existing) to block views into back of equipment/construction.

c. Draft Agenda for the Regular Planning Board Meeting on April 10, 2013

- Public hearing on Regulated Uses
- Conditional Rezoning
- Transitional areas
- Sub-Area Plan for Oakland/Park/Woodward Ave.

d. Other Business

Ms. Ecker updated the board on the status of Market. Permits are alive and they have until June or July to open. With respect to Stoney River, they will not be moving in and the space will be leased out.

Mr. Koseck asked that Outdoor Display be moved higher on the Priority List.

Ms. Whipple-Boyce reported on progress of the Joint Library Building Committee. The Library hired George Lawson, a library expert, to come up with what may be needed. The Committee has conducted surveys, held community forums with small groups and invitation only groups and different demographics. The City Commission was asked to move ahead with an RFP for selection of an architect, and that has been issued. On April 23 the Committee will hold a meeting to narrow down the list. Then on April 29 the Committee will select from the smaller pool to move ahead with a Stage 1 Plan that will include conceptual drawings and cost proposals for presentation to the City Commission.

03-55-13

PLANNING DIVISION ACTION ITEMS

- a. Staff report on previous requests (none)

- b. Additional items from tonight's meeting (none)

03-56-13

ADJOURNMENT

No further business being evident, board members motioned to adjourn at 9:36 p.m.

Jana Ecker
Planning Director

APPROVED